



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Aleksandro
Ibarrondo, Deputy Police Chief
(PC2190V), Camden County

CSC Docket No. 2018-2389

Examination Appeal

ISSUED: April 10, 2018 (RE)

Aleksandro Ibarrondo appeals his score on the examination for Deputy Police Chief (PC2190V), Camden County. It is noted that the appellant passed the examination with a final average of 77.930 and ranks fourth on the resultant eligible list.

It is noted for the record that this was an oral examination consisting of four questions. The examination content was based on a comprehensive job analysis. Senior command personnel from police departments, called Subject Matter Experts (SMEs), helped determine acceptable responses based upon the stimulus material presented to the candidates, and they scored the performances. In each question, candidates were presented with a scenario and had to respond to a series of questions about the scenario.

Each question, and overall oral communication, was rated on a five-point scale, with 5 as the optimal response, 4 as a more than acceptable passing response, 3 as a minimally acceptable passing response, 2 as a less than acceptable response, and 1 as a much less than acceptable response. The appellant received scores of 5, 4, 2 and 3, respectively, and a score of 3 for oral communication. The appellant appeals his score for the third question and for oral communication.

Question 3 pertained to Criminal Law. This item referred to anticipatory search warrants. The appellant correctly answered Part A. Part B asked for the elements that must be demonstrated in an anticipatory search warrant affidavit that are not normally found in a traditional search warrant affidavit.

The appellant received a score of 2 and the assessor noted that, for Part B, the appellant failed to indicate the following: the facts set forth in the affidavit should show in detail how the affiant knows the contraband or criminal evidence will at some future time be located at the place indicated, and how reliable his or her sources are; the affidavit should indicate that the described items will arrive at the place to be searched promptly following the issuance of the warrant; and, the affidavit must contain language which expressly declares that the search warrant will not be executed until that happening of a specific event.

On appeal, the appellant maintains that he stated that the package must be delivered and accepted at the residence in order for law enforcement to have probable cause to search that residence. And if it is not delivered or accepted, law enforcement cannot search. When prompted, he stated that the affidavit must contain a component that if not successfully delivered, the search warrant is void.

At the outset, it is noted that the scores for the technical component are not reduced by missed opportunities to provide more information. Rather, each performance was rated on a five-point scale (1 to 5) from much less than acceptable through much more than acceptable according to determinations made by the SMEs. The assessor notes are examples of missed opportunities to provide appropriate responses, and thus, the examples given may not be the only missed opportunities.

This was a formal examination setting, and candidates were required to provide clear and straightforward responses. A review of the appellant's video indicates that the appellant stated, "The warrant document, ah, the affidavit rather, must, must contain ah the residence where the package is intended ah to be delivered. And it's ah stipulates that the package must be delivered and accepted at that residence in order for law enforcement to have probable cause to search, ah search that residence." This response is that the affidavit contain the address, and that the the package must be delivered and accepted at that residence in order for law enforcement to have probable cause to search there. This response does not match the assessor notes. The question asked for elements found in an anticipatory search warrant affidavit that are not normally found in a traditional search warrant affidavit. The address of the residence is not one of those elements. Additionally, it will not state that the package must be delivered and accepted at that residence in order for law enforcement to have probable cause to search. Rather, it must set forth facts, describe the items, and include the happening of a specific event. Credit cannot be given for information that is implied or assumed, and candidates could only receive credit for what was actually said.

The appellant continued with, "If that package is not successfully delivered or if that package is not ah accepted by the homeowner or someone in that residence then law enforcement does not have the ability to search that residence. Or conduct

a search of ah the person within that residence.” This is a directive, and not information that is included on an anticipatory search warrant affidavit. The appellant then began discussing policy creation, training, press releases and other information. This was information that had nothing to do with either part of the question. He continued providing superfluous information for over two minutes before the assessor directed him back to the question. The assessor indicated that the appellant addressed Part A and started addressing Part B, and asked him to relook at Part B. At this point, the appellant reiterated that the residence must be on the affidavit, and he stated, “And it must contain the, the component that if the ah, item or package is not successfully delivered or accepted that the search warrant is, is void for the search of that property. It must contain the physical description of the property to include the, the address and any other physical descriptions, descriptors to be utilized by law enforcement personnel ah when locating that property for that property to be searched.” This response provided no information that was not already given.

The assessor then asked the appellant to be more specific about probable cause. The appellant responded, “Ah, the fact ah that a canine alerted on the package establishes law enforcement with the ah prerequisite probable cause to apply for that search warrant. The courts have ruled that the probable cause has, can have many different meanings ah when it comes to conducting a search as long as there is reason to believe that ah an illegal ah item will be located in a specific place ah that establishes the prerequisite (indecipherable word) for the applying of that search warrant. The courts have also ruled that a canine sniff ah, ah were drug-alerting dog ah does establish probable cause to conduct a search of either a vehicle, person, or place.” With this response, the appellant is not answering Part B of the question, but rather is a response to Part A. And when the assessor said “Okay,” the appellant continued with more superfluous information regarding policy training and other issues. The appellant missed the items noted by the assessor and his score of 2 for this question is correct.

The appellant received a score of 3 for oral communication. The assessors noted that, for questions 1 and 2, the appellant displayed a major weakness in inflection/rate/volume as evidenced by nine pauses in his response, and examples were provided. They also indicated that he spoke in a low-volume throughout his responses. For questions 3 and 4, it was indicated that he exhibited a minor weakness in organization as evidenced by spending a lot of time discussing subjects there were tangential to the questions or scenario. For example, in question 3, he talked about creating a policy, posting a policy, etc. before being asked questions by the assessor, and then continued talking about policy. Also, in question 4, he answered the questions and then talked about needing a policy on sexual harassment and making sure supervisors act appropriately. Also, he exhibited a minor weakness in volume as evidenced by speaking rather quietly, making it difficult to hear him at times, and that he spoke somewhat in monotone. On appeal,

the appellant states that there were no issues of understanding what he said and he did not lean-in closer. He states that a point was deducted for being monotone, but his speech was consistently engaging, and he spoke in a manner that allowed an audience to digest and comprehend what he was presenting.

In reply, a score of 3 in oral communication indicates that the performance is acceptable and meets the criteria required for job success. Nevertheless, either two or three minor weaknesses, or one major weakness, or one major and one minor weakness, detract from the communication. The assessors indicated weaknesses in organization and inflection/rate/volume. A weakness in organization is defined as failing to present ideas in a logical fashion, state a topic, and provide supporting arguments as well as a conclusion or summary. Also, a weakness in organization occurs when a candidate rambles or goes on a tangent. A weakness in inflection/rate/volume is defined as failing to speak at an appropriate rate (including pausing), failing to maintain appropriate pitch and volume, and failure to properly use pitch to convey meaning or emphasis. This factor was noted across all four presentations.

A review of the appellant's presentations indicates that, as already explained, the appellant displayed a weakness in organization in replying to question 3. Instead of responding to Part B directly, the appellant provided his own agenda regarding policies pertaining to search warrants. He did not stay on topic even when directed by the assessor to reread the question. His summary for question 3 began at the 2-minute mark, but was not on topic as he gave the reason for search warrants, without referring to an anticipatory search warrants, and discussed the necessity of training, and reviews of search warrants. Similarly, question 1 asked for search requirements, procedures, and reports on strip searches. After addressing the three parts of the question, the appellant began speaking of creation of a policy on strip searches. The appellant spoke to the chief regarding creation of a policy and contacting the mayor, and spoke to the training commander regarding content, timing, and follow-up of training. He reviewed the policy with the mayor and the governing body, posted the policy on the website and document management system, held a press conference, conducted a budget review, and discussed the consequences of an illegal strip search. None of this had anything to do with the parts of the question. The appellant did this again in response to question 2, which involved a supervisory issue. He created a policy and began to discuss implementation of the policy regarding a hostile work environment.

Regarding inflection/rate/volume, the appellant paused at times while speaking in a slow, staccato rate, so that it was unclear if he had finished a sentence, and sentences included distracting verbal mannerisms such as "ah." For example, in question 4, he stated, "If ah needed, I would reassign ah someone else to ah control the extra duty to ensure that it is being done appropriately. (5 second pause) If during my ah investigation ah I learned that ah this is a somewhat hostile

work environment I would ensure that ah the EEO AA equal employment opportunity and affirmative action officers, ah officer is notified.” At another point, the appellant stated, “Now I cannot imagine having to come to work and being subjected to, to ah, sexual harassment ah, either being sexually harassed personally or third party sexual harassment ah, where a hostile work environment is being created ah because someone who’s around me was being sexually harassed or ah, is being provided things for sexual favors.” The appellant spoke in a slow staccato rate throughout his responses to all four questions, with pauses and distracting verbal mannerisms. His oral communication contains the weaknesses noted by the assessors, and his score of 3 for this component is correct.

CONCLUSION

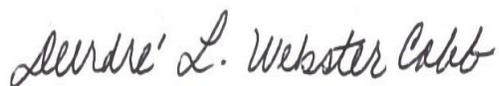
A thorough review of the appellant’s submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 4TH DAY OF APRIL, 2018



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